IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 15522 of 2000

Between:

Mr. Ananth Swaminathan, S/o. Sri K.K. Swaminath ,
R/o. 108, AWHO Cololny, Sector "A' Goutam Enclave,

Secunderbad.,, presently residing in UAE and the

Petitioner represented by GPA Holder Mrs. Gurinder

Madhusadan Singh,

..... PETITIONER

AND

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1 The Inspector of Police, DA, Teams , CCS, Hyderabad.
2 The Bank of India , Rep. by its AGM, Sri K., B. Anitha,

Main Branch, Station Road, Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ more specifically one in the nature of Writ of Mandamus declaring the action of the respondent in implicating the petitioner as A-7 IN crime No. 327/98, dated 17/11/1998 under section 420, 468 and 471 IPC registered and investigated into by the 1st respondent as illegal , arbitrary, abuse of process of law, null, void and violative of Articles 14 and 21 of the Constitution of India and consequently direct the 1st respondent to delete the name of the petitioner as accused in crime No. 327/98, dt.17-11-1998 by further directing the respondent no. 1 not to interfere with the civil dispute between the petitioner.

Counsel for the Petitioner: MR.B.KRISHNA MOHAN

Counsel for Respondent No.1: G.P. for Home

The Court made the following :

ORDER:

The petitioner seeks a Writ of Mandamus declaring the action of the first respondent in adding the petitioner as accused No.7 in Crime No.327 of 1998 of Central Crime Station, Hyderabad under Section 420, 468 and 471 IPC as illegal and arbitrary. He seeks a consequential direction to the first respondent to delete the name of the petitioner as accused in Crime No.327 of 1998.

The Second respondent herein lodged First Information Report (F.I.R.) with the first respondent on 17.11.1998. It was alleged therein that M/s. S.S.P. Polymers Industries Limited availed loan facilities amounting to Rs.1,75,00,000/- (Rupees one crore and seventy five lakhs only) from the Bank of India and the petitioner along with others produced documents towards collateral security. When these documents were verified through M/s. Buywell Agencies Private Limited and M/s. Amidiyala Enterprises, Hyderabad, the documents furnished by the petitioner and other directors of the Company were found to be fake. It is therefore, alleged that the directors of the Company are fraudulently siphoning of the amounts from Cash Credit Account of the M/s. S.S.P. Polymers Industries Limited. Based on the same, the crime was registered.

It is no gainsaying that when any information as to commission of a cognizable offence is given to the Police Officer, in-charge of Police Station, he is bound to register F.I.R and take up investigation immediately. After completing investigation as expeditiously as possible, the police have to file a report under Section 173 (2) of the Code of Criminal Procedure, 1973, (for short 'Cr.P.C.'). Insofar as registration of crime by the first respondent is concerned, the same cannot be said to be illegal. A reading of the complaint given by the Assistant General Manager, Bank of India, Zonal Office, would certainly point out that the petitioner is also prima facie involved in the commission of crime. If the petitioner has any defences to be raised, such defences have to be raised when the police file a charge sheet, by filing a separate application for discharge on the ground that there are no allegations against him. Whether or not the petitioner is involved and whether or not the petitioner ceased to be a director at the time of grant of loan are questions of fact, which cannot be decided in a writ petition under Article 226 of the Constitution of India. The petitioner seeks a declaration that implicating him as accused No.7 is illegal. By the very nature of jurisdiction exercised under Article 226 of the Constitution of India a Writ of Mandamus cannot be issued in such matters. The writ petition is misconceived. If so advised, the petitioner may move appropriate court as and when the police file a charge sheet and seek discharge.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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V.V.S. RAO, J.

8th July, 2005

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To

1 The Inspector of Police, DA, Teams , CCS, Hyderabad.
2 The Assistant General Manager, Sri K., B. Anitha, Bank of India

Main Branch, Station Road, Nampally, Hyderabad.

3 Two CCs to G.P. for Prohibition & Excise, High Court Buildings,

Hyderabad.

4 2 CD copies.